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SUBJECT: TRAFFICKING IN PERSONS - NEW ZEALAND 3/2007

REF: 06 STATE 202745

¶1. (SBU) Following are responses for the Trafficking in Persons report for New Zealand, keyed to reftel:

Begin responses:

¶27. Overview of a country's activities to eliminate trafficking in persons:

-- A. Is the country a country of origin, transit, or destination for internationally trafficked men, women, or children? Provide, where possible, numbers or estimates for each group; how they were trafficked, to where, and for what purpose. Does the trafficking occur within the country's borders? Does it occur in territory outside of the government's control (e.g. in a civil war situation)? Are any estimates or reliable numbers available as to the extent or magnitude of the problem? What is (are) the source(s) of available information on trafficking in persons or what plans are in place (if any) to undertake documentation of trafficking? How reliable are the numbers and these sources? Are certain groups of persons more at risk of being trafficked (e.g. women and children, boys versus girls, certain ethnic groups, refugees, etc.)?

New Zealand has been a country of destination for internationally trafficked women in the commercial sex industry. While the government reports no new confirmed cases of internationally trafficked persons have been brought to the attention of the authorities since 2001, there was evidence that some women from Asia and other parts of the world including Brazil and Eastern Europe were working illegally in the country as prostitutes. Although prostitution has been decriminalized, it remains illegal for nonresidents to work in the commercial sex industry. Most knowledgeable sources estimate that the extent of the problem is minimal on the scale of perhaps a few dozen individuals per year. The government believes that Asian women and low skilled illegal migrant workers are at greatest potential risk of being trafficked to New Zealand.

Shakti Migrant Services Trust, an antitrafficking NGO,

reported abuses resulting from the immigration of Indian women for arranged marriages, and provided services to abused women through four refuges located in Auckland, Christchurch and Tauranga. While not providing specific numbers of those supported, Shakti reported that one of its 5-bed facilities was at full census for part of 2005. In December 2005 the UN's special rapporteur on human trafficking, while on a private visit to the country, asserted in the press that although in many cases such groups as mail-order brides, migrant workers, foreign fishermen, and those in arranged marriages enter the country voluntarily, they could be at risk of losing their autonomy and becoming victims of trafficking.

-- B. Please provide a general overview of the trafficking situation in the country and any changes since the last TIP Report (e.g. changes in direction). Also briefly explain the political will to address trafficking in persons. Other items to address may include: What kind of conditions are the victims trafficked into? Which populations are targeted by the traffickers? Who are the traffickers? What methods are used to approach victims? (Are they offered lucrative jobs, sold by their families, approached by friends of friends, etc.?) What methods are used to move the victims (e.g., are false documents being used?).

In the past, source countries of trafficked individuals have included Thailand, China, and other Asian countries. The primary destination in New Zealand is usually Auckland, New Zealand's largest city. In its May 2006 report to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), GNZ reported that it has been working with the Auckland City Council and relevant local NGOs to develop solutions that assist and protect migrants working illegally as prostitutes and prosecute those involved in their trafficking and employment. Commercial sexual exploitation of children was a problem, and this has been the subject of increased focus and debate by regional and national governmental and non-governmental organizations over the past year.

Under the Prostitution Reform Act, it is illegal to use a person under 18 years of age in prostitution. A study by the Prostitution Law Review Committee completed in April 2004 estimated that approximately 200 people under the age of 18 were working as prostitutes, with the majority (60 percent) working on the street.

A January 2006 police sweep for underage persons working in the "red light" district of Christchurch yielded four persons under age 18, including one age 12 and one age 14. There has been no confirmation that the persons were engaging in prostitution, and the persons ages 12 and 14 had been reported missing from foster homes prior to the sweep. Christchurch is considered to have the greatest problem with underage sex workers. During the year, intense debate surrounding the Manukau City Council (Control of Street Prostitution) Bill (see 29E), revived discussion about key studies of underage sex workers in New Zealand. A 2001 study of sex workers in Christchurch found that 31 percent had entered prostitution before age 18. A 2004 GNZ-funded follow-up study of 47 respondents aged 15 to 47 found that the average age at which respondents received payment for their first commercial sex act was 14.

Following the January 2001 decision ending visa free entry for Thai nationals, there have been indications that the level of Thai commercial sex workers has waned. There has been an increase in Chinese sex workers coming from Cantonese-speaking parts of Asia. There are also small numbers of sex workers from other parts of the world, including Eastern Europe. More recently, there was evidence that some women from the Czech Republic and Brazil were working illegally in the country as prostitutes. (Note: The Czech Republic and Brazil are among newer countries participating in New Zealand's visa waiver program. End note.) Commercial sex work is not legal for non-residents; however, these activities would generally be prosecuted as

immigration violations if uncovered. The New Zealand Prostitutes Collective (NZPC) indicated that there has been an increase in non-New Zealand resident sex workers in areas where there language schools and universities.

Limited evidence of internationally trafficked persons into New Zealand suggests that most understand that they are going to work in the commercial sex industry. However, recalling a historical study of the Thai sex worker community in Auckland before 2001, one researcher noted that while most (70-percent) were aware that they were going to work in the sex industry, 30-percent were not aware, which was ipso facto trafficking. At the time of that study, Thais could travel to New Zealand without a visa. Subsequent changes in visa policy led to reduced numbers of Thai women in the sex industry. However, observers have noted an increase in Chinese prostitutes in New Zealand, and little is known about their situation (see 29E). In the past, trafficked individuals also worked in the construction and garment industries. From time to time, "bonds" are required for commercial sex workers to pay for entry into New Zealand and pimps/facilitators have been known to withhold passports pending payment of the "bonds."

-- C. What are the limitations on the government's ability to address this problem in practice? For example, is funding for police or other institutions inadequate? Is overall corruption a problem? Does the government lack the resources to aid victims?

Resources appear adequate given the size of the problem. GNZ funds programs through its ministries as well as providing funding to NGOs that deal with trafficking issues.

The Victims' Rights Act 2002 establishes the rights of victims of crime. Such rights include the right to be informed of services (such as physical and mental health services, legal services, social welfare, and counseling) and access to remedies.

-- D. To what extent does the government systematically monitor its anti-trafficking efforts (on all fronts -- prosecution, prevention and victim protection) and periodically make available, publicly or privately and directly or through regional/international organizations, its assessments of these anti-trafficking efforts?

There is no plan to document the extent of trafficking; instead the focus is on ensuring that programs exist to deal with traffickers and victims as they come to light. The government is currently in the process of developing the National Plan of Action to Combat Trafficking in Persons (NPACT) that will involve all interested government agencies, NGOs and civil society groups. One of the facets of the NPACT is to review, refine and enhance New Zealand's present strategies and framework, including monitoring and evaluation strategies, with the possibility of making improvements as considered necessary and desirable.

128. PREVENTION:

-- A. Does the government acknowledge that trafficking is a problem in the country? If not, why not?

Yes, New Zealand is at the forefront of international efforts to combat trafficking in persons. New Zealand acknowledges that trafficking is a problem, although they have disagreed with the USG definition of children engaged in the commercial sex industry, often defining this as child abuse or neglect. The Prostitution Reform Act of 2003 was passed in an effort to protect commercial sex workers and in particular to block the commercial sexual exploitation of children. New Zealand's trafficking legislation defines minors as those less than 18 years of age. The Act prohibits child sex tourism, and citizens who commit child sex offenses overseas can be tried in New Zealand courts.

-- B. Which government agencies are involved in anti-trafficking efforts and which agency, if any, has the lead?

The Department of Labour - Immigration is the current lead agency. Other agencies involved in the formulation of policy and its implementation are New Zealand Customs Services; Ministry of Social Development; the Ministry of Foreign Affairs and Trade; the Ministry of Justice; the Ministry of Health; the Department of Child, Youth and Family; and the New Zealand Police. The independent Human Rights Commission also participates.

-- C. Are there, or have there been, government-run anti-trafficking information or education campaigns? If so, briefly describe the campaign(s), including their objectives and effectiveness. Do these campaigns target potential trafficking victims and/or the demand for trafficking (e.g. "clients" of prostitutes or beneficiaries of forced labor)?

A highly successful Thai language anti-trafficking campaign was launched in 1999 to target Thai women in the commercial sex industry. The government extends substantial resources to combat trafficking in persons.

NGOs including the New Zealand Prostitute's Collective (NZPC), the Maxim Institute, the Women's Refuge, Shakti Migrant Services Trust and the Salvation Army offer programs to commercial sex workers on the street, offering "life options." While the major NZ organization dealing with trafficking (End Child Prostitution and Trafficking, or ECPAT) primarily targets demand, all NGOs focus on offering assistance to victims. The NZPC has helped underage prostitutes to find alternate employment or assisted them in returning to school.

New Zealand's 2001 National Plan of Action Against the Sexual Exploitation of Children (Protecting Our Innocence) is a comprehensive framework that addresses the core child related issues of child trafficking, prostitution, pornography and sex tourism. The Ministry of Justice is the lead agency (in consultation with the NGO ECPAT). In 2006, the Ministry and ECPAT released a five year stock take of the programs aimed at, among other things, combating child trafficking. The Justice Minister noted that the record of action was largely a positive one, but that "there is no room for complacency if we are to achieve our goal of completely eliminating the commercial exploitation of children."

The independent Human Rights Commission criticized the government's level of action against child prostitution stating that "existing measures are inadequately enforced," and called for better central and local government engagement for addressing the problem of child prostitution. The Commission further criticized the stock take saying that it provides little information about the provision of services for children, adding that "while there has been research on the numbers of underage prostitutes, little else appears to have been done."

-- D. Does the government support other programs to prevent trafficking? (e.g., to promote women's participation in economic decision-making or efforts to keep children in school.) Please explain.

Yes. New Zealand supports international efforts to combat trafficking. A number of these campaigns are now provided in a range of languages to make new immigrants and refugees aware of their rights while living in New Zealand, including employment rights and human rights.

The New Zealand government released its Action Plan for New Zealand Women in 2004. The Plan, developed by the Ministry of Women's Affairs in consultation with a broad range of public sector agencies, NGOs, and civil society groups, is a comprehensive whole of government approach to improving the circumstances of women in New Zealand. Specific actions have been developed to increase opportunities for Maori and New

Zealand Pacific Island women and women of other ethnicities, as well as women with disabilities, and women from rural areas. The Plan looks at strategies for improving women's participation in the paid workforce, access to decision-making, attendance in tertiary education, access to financial assistance to establish businesses, measures to prevent domestic violence, access to social and health services and so on.

The Human Rights Commission has also previously received some funding for its anti-trafficking campaigns, primarily during the period from 1999 to 2001 when actions were focused on Thai women working in Auckland's sex industry (see 30G).

The government also supports initiatives such as those undertaken by ECPAT to educate travel agents about legislation and awareness of issues around sex tourism and the risks to children in tourist destinations.

The Department of Child, Youth and Family Services provide "bed nights" funding to an organization called Baptist Action in Auckland that runs a safe house for young girls at risk of, or involved in prostitution. Youth and Cultural Development in Christchurch has a Street Youth Work Project that works with young people who are at risk of or are sex workers and are under the age of 18 years. This project has a case management component and works with a "Harm Minimization" focus. This project encourages young people identified as at risk to look at options for their future. Staff work on the street three nights per week and run a "drop in" service, home visits where appropriate and promote sexual health checks.

-- E. What is the relationship between government officials, NGOs, other relevant organizations and other elements of civil society on the trafficking issue?

There are excellent cooperative relations between the government, NGOs and elements of civil society on the trafficking issue. The GNZ funds many NGOs and civil society institutions combating this problem.

For example, the government worked with nongovernmental organizations (NGOs) to address trafficking in children and provided funding for NGO outreach programs in Auckland and Christchurch that provided accommodations and other support for young persons at risk for involvement in prostitution. The government had a 2001 national plan of action against the commercial exploitation of children developed in concert with NGOs and completed a progress review of the plan during the year; its report on the review was released during the year (see 28C).

-- F. Does the government monitor immigration and emigration patterns for evidence of trafficking? Do law enforcement agencies screen for potential trafficking victims along borders?

Yes, the New Zealand government reports a commitment to maintaining the security of its borders and complying with international obligations, including its anti-trafficking obligations. The Government regularly monitors immigration and emigration patterns onshore and offshore passenger screening for evidence of possible trafficking. The government also has in place an Advance Passenger Processing system that requires airlines to identify passengers who may be seeking to enter New Zealand illegally before they embark an aircraft.

-- G. Is there a mechanism for coordination and communication between various agencies, internal, international, and multilateral on trafficking-related matters, such as a multi-agency working group or a task force? Does the government have a trafficking in persons working group or single point of contact? Does the government have a public corruption task force?

Yes, while in the past the National Human Rights Commission

coordinated responses to these problems, the Department of Labour has been named the primary coordinating agency for anti-trafficking efforts. The Government actively participates in multilateral and efforts to prevent, monitor, and control trafficking.

The New Zealand Customs Service has a formal Memorandum of Understanding ("MoU") with the New Zealand Police that covers information sharing, joint operations and joint training opportunities. The terms of the MoU cover trafficking-related issues. The Department of Labour - Immigration has a similar arrangement with the Police. The multi-agency working group related to the NPACT is presently led by Department of Labour.

During August 2004, the U.S. Department of Homeland Security provided New Zealand Customs with intelligence on a number of New Zealand residents who had access international websites offering child pornography. Based on this information, a multi-agency operation executed 52 warrants that ultimately resulted in 29 individuals charged for offenses relating to importing objectionable material under the Customs and Excise Act 1996.

There is no evidence that public corruption is a problem in New Zealand. That said the government has a comprehensive response to combating bribery and corruption. While no single agency is charged with the task of dealing with corruption, there are a number of agencies that fulfill specific tasks. The core government Ministries and agencies include: Police, Financial Intelligence Unit; Serious Fraud Office; Office of the Ombudsmen; Inland Revenue; the Office of the Controller and Auditor-General; Department of Internal Affairs and State Services Commission. There are other agencies as well, such as the Ministry of Justice which leads policy initiatives against corruption and bribery. On Transparency International's Corruption Perception Index, New Zealand has ranked among the five best performing nations since the inception of the index.

-- H. Does the government have a national plan of action to address trafficking in persons? If so, which agencies were involved in developing it? Were NGOs consulted in the process? What steps has the government taken to disseminate the action plan?

Yes. The Government of New Zealand initiated the process to develop a National Plan of Action to Combat Against Trafficking in Persons (NPACT) in February 2005, naming the Department of Labour (which includes the Immigration Service) as the lead agency in coordinating anti-trafficking strategies. The GNZ continues in its efforts to develop the plan, and expects to hold a public session in the future.

While the Department of Labour is the lead coordinating agency, the Department of Internal Affairs; Ministry of Foreign Affairs and Trade; the Department of Child, Youth and Family Services; the Office of the Commissioner for Children; the New Zealand Law Society; the Ministry of Pacific Island Affairs; End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT); Ministry of Youth Affairs; Ministry of Justice; Ministry of Health; Ministry of Social Development; Human Rights Commission; New Zealand Customs Service; and the Ministry of Education are all involved in the development and implementation of New Zealand's anti-trafficking plan. The plan is moving to final stages, and consultations are ongoing. The plan will include input from NGOs.

The agencies and ministries mentioned above support a wide range of programs that, while not always specifically addressing trafficking, are working to explain worker rights and keep minors from entering the commercial sex industry.

129. INVESTIGATION AND PROSECUTION OF TRAFFICKERS:

For questions A-D, posts should highlight in particular whether or not the country has enacted any new legislation

since the last TIP report.

-- A. Does the country have a law specifically prohibiting trafficking in persons -- both for sexual and non-sexual purposes (e.g. forced labor)? If so, please specifically cite the name of the law and its date of enactment. Does the law(s) cover both internal and external (transnational) forms of trafficking? If not, under what other laws can traffickers be prosecuted? For example, are there laws against slavery or the exploitation of prostitution by means of force, fraud or coercion? Are these other laws being used in trafficking cases? Are these laws, taken together, adequate to cover the full scope of trafficking in persons? Please provide a full inventory of trafficking laws, including non-criminal statutes that allow for civil penalties against alleged trafficking crimes, (e.g., civil forfeiture laws and laws against illegal debt.

New Zealand adopts the definition of trafficking set out in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The definition only covers transnational forms of trafficking. With this notable difference with U.S. law, the New Zealand legislation is comprehensive and covers all aspects of trafficking, including reception, concealment or harboring of persons. Measures to punish incidents of what we would call domestic "trafficking," such as abduction, assault, kidnapping and rape, are covered in other New Zealand legislation. In February 2002, New Zealand passed tough legislation criminalizing human smuggling and trafficking. The Transnational Organized Crime Bill was adopted on June 17, 2002 as an amendment to the Crimes, Extradition, Immigration, Passports and Mutual Assistance in Criminal Matters Amendment Acts.

The key legislative provisions are found in Part 5 of the Crimes Act 1961. The relevant provisions are sections 98 (dealing in slaves), 98A (participation in organized criminal group), 98B (definitions), 98D (trafficking in persons), 98E (aggravating factors), and 98F (Attorney-General's consent required). Section 6 of the Crimes Amendment Act 2005 inserted section 98AA. Section 98A, 98C and 98D are also offenses for which a person may be extradited from a country with which New Zealand has an extradition treaty. Section 98 of the Crimes Act 1961 makes dealing in slavery an offense and section 16 of the Prostitution Reform Act 2003 prohibits inducing or compelling persons to provide commercial sexual services or earnings from prostitution. Section 98AA, which came into force in 2006, was enacted to comply with New Zealand's obligations under the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography. It establishes an offense for dealing in people less than 18 years for sexual exploitation, removal of body parts, or engagement in forced labor. The Immigration Act 1987 addresses employer responsibility (section 39) and employer exploitation of those who are not legally entitled to work in New Zealand (section 39A). The provisions have not to date been used in any trafficking case.

-- B. What are the penalties for trafficking people for sexual exploitation?

New Zealand's anti-trafficking legislation imposes penalties of up to 20 years in prison and USD 350,000 (NZD 500,000) in fines.

-- C. Punishment of Labor Trafficking Offenses: What are the prescribed and imposed penalties for trafficking for labor exploitation, such as forced or bonded labor and involuntary servitude? Do the government's laws provide for criminal punishment -- i.e. jail time -- for labor recruiters in labor source countries who engage in recruitment of laborers using knowingly fraudulent or deceptive offers that result in workers being exploited in the destination country.

For employers or labor agents in labor destination countries who confiscate workers' passports or travel documents, switch

contracts without the worker's consent as a means to keep the worker in a state of service, or withhold payment of salaries as means of keeping the worker in a state of service? If law(s) prescribe criminal punishments for these offenses, what are the actual punishments imposed on persons convicted of these offenses?

New Zealand's anti-trafficking legislation imposes penalties of up to 20 years in prison and USD 350,000 (NZD 500,000) in fines.

-- D. What are the prescribed penalties for rape or forcible sexual assault? How do they compare to the prescribed and imposed penalties for crimes of trafficking for commercial sexual exploitation?

Sexual violation is punishable by a term of imprisonment not to exceed 20 years.

-- E. Is prostitution legalized or decriminalized? Specifically, are the activities of the prostitute criminalized? Are the activities of the brothel owner/operator, clients, pimps, and enforcers criminalized? Are these laws enforced? If prostitution is legal and regulated, what is the legal minimum age for this activity? Note that in many countries with federalist systems, prostitution laws may be covered by state, local, and provincial authorities.

The 2003 Prostitution Reform Bill legalized prostitution, and solicitation was no longer a crime. The legislation set a minimum age of 18 to work in the industry, gives prostitutes the same workplace protections as other industries, and provides for a licensing regime for brothels. In addition, the law removes a client's ability to defend himself from prosecution based on his belief that an underage sex worker was 18 years or older, and extends prosecution to any person receiving financial gain from an act involving an underage sex worker. The law prohibits sex tourism, and citizens who commit child sex offenses overseas can be prosecuted in New Zealand courts. There were no reports of abuse or the involuntary detention of women involved in prostitution during the year; however, there were several credible reports that women smuggled into the country were forced into prostitution to repay substantial debts to traffickers. There were also reports that some foreign commercial sex workers had their passports withheld by employers until bonds were repaid. There were also allegations that children engaged in prostitution did so to repay debts to local gangs.

A Prostitution Law Review Committee was created in conjunction with the Act and is tasked with reviewing the operation of the Act and reporting on its findings within 5 years. The Committee released a report in April 2005 that reported on the number of sex workers in New Zealand. The report provided baseline data against which to assess the longer term impact of the legislation.

Police have noted that it is difficult to prosecute underage commercial sex workers as the police are prevented from requiring identification. As many child prostitutes do not see themselves as victims, and do not cooperate with the police, the police are finding it difficult to indict violators. Police contend further that their ability to enter brothels has been curtailed by the Prostitution Reform Act. Other government agencies and civil society groups contest this position, arguing that the Police have the same legal authority to enter a brothel as any other building.

During a review of New Zealand's trafficking and related law conducted during a GNZ-funded fellowship hosted by the Ministry of Justice, U.S. assistant attorney Susan Coppedge found that since the PRA came into effect, the burden of proof required for Police to enter brothels had risen. However, the legal authority does not appear to be the primary barrier to entry. As noted by Coppedge, the Police focus in Auckland and other centers of prostitution is on

drug trafficking and violent crime.

Health workers and researchers have also found access to brothels limited, particularly brothels employing Chinese sex workers. They have expressed concerns of coercion based on what one health worker characterized as "naive and vulnerable" Chinese students. One study showed a 25 percent increase in foreign sex workers since prostitution was decriminalized. One of the study's authors reported that two-thirds of the sex workers she had identified were Chinese females. The Prostitutes Collective in Auckland has noted an increase in Chinese sex workers coming from Cantonese-speaking parts of Asia. The increase was most noticeable in areas near language schools and universities.

In August 2005, the Manukau City Council (Control of Street Prostitution) Bill passed its first stage in Parliament, and was referred to the Local Government and Environment Select Committee. The bill provides for local control over street prostitution in Manukau City by prohibiting solicitation for prostitution in public places by prostitutes, clients and persons acting on their behalf. The Select Committee reported on the bill in September 2006, and did not offer its support. The bill was voted down in October 73 to 46. Legislators noted flaws in the bill and widely divergent estimates of the prostitution problem. However, the primary reason that the bill was voted down was that it would have contributed to divergent, localized policies while the Parliament sought a single, national policy regarding the control of prostitution. (NB: New Zealand has no local law enforcement. New Zealand Police is a national law enforcement entity.)

In August, a parliamentary select committee unanimously opposed a bill which would have set up a register of serious sexual offenders. New Zealand-based NGO, ECPAT, which works to stop child prostitution, said that the public needs more information about the way abusers are treated and monitored. The NGO acknowledged that registries have problems, but said that existing information to guide anyone working with vulnerable children was inadequate.

-- F. Has the government prosecuted any cases against traffickers? If so, provide numbers of investigations, prosecutions, convictions, and sentences, including details on plea bargains and fines, if relevant and available. Does the government in a labor source country criminally prosecute labor recruiters who recruit laborers using knowingly fraudulent or deceptive offers or impose on recruited laborers inappropriately high or illegal fees or commissions that create a debt bondage condition for the laborer? Does the government in a labor destination country criminally prosecute employers or labor agents who confiscate workers' passports/travel documents, switch contracts or terms of employment without the worker's consent, use physical or sexual abuse or the threat of such abuse to keep workers in a state of service, or withhold payment of salaries as a means to keep workers in a state of service? Are the traffickers serving the time sentenced: If not, why not? Please indicate whether the government can provide this information, and if not, why not? (Note: complete answers to this section are essential. End Note)

As of April 2006, 14 people had been charged under the Prostitution Reform Act for offenses relating to prostitution of persons less than 18 years of age. There have been eight convictions. In the remaining cases the charges were withdrawn, the accused was acquitted or the charges were otherwise not proven. Four of the convictions were entered in 2005/2006. During the 2005/2006 year three brothel operators and one client were prosecuted for the use of persons under age 18 in prostitution. The client and three brothel operators were convicted.

The Prostitution Reform Act (PRA) presumes harm to those under 18 who are engaged in commercial sexual activity. Some observers believe that law enforcement officials and the judiciary nevertheless tend to perceive consent and

complicity among underage prostitution victims. According to a report by a U.S. Department of Justice (DoJ) attorney participating in a GNZ-sponsored fellowship in New Zealand the sentencing judge in one case involving a 16-year old declared that the victim was not coerced and acted as a free agent. Facing a maximum of 7 years in prison, the defendant was sentenced to one year and nine months in prison. In other cases, the DoJ attorney perceived light sentencing that did not comport with the PRA's goal of preventing child sexual exploitation. Other observers have noted inconsistency and perceived leniency in sentencing with a weight toward community service or limited prison terms. New Zealand is facing a prison crowding situation, and has a robust home detention system. (NB: The DoJ attorney participated in an Ian Axford Public Policy fellowship, and was hosted by the Ministry of Justice. Attorneys who worked with her during her fellowship expressed concerns about her academic approach and the quality of her work. End NB.)

-- G. Is there any information or reports of who is behind the trafficking? For example, are the traffickers freelance operators, small crime groups, and/or large international organized crime syndicates? Are employment, travel, and tourism agencies or marriage brokers fronting for traffickers or crime groups to traffic individuals? Are government officials involved? Are there any reports of where profits from trafficking in persons are being channeled? (e.g. armed groups, terrorist organizations, judges, banks, etc.)

There is no clear evidence on this subject; however, police speculate that small-scale Asian organized crime groups participate in this illegal trade. The police have a dedicated unit for international organized crime, which may overlap with anti-trafficking efforts. There are no reports of government officials having been involved in this trade.

-- H. Does the government actively investigate cases of trafficking? (Again, the focus should be on trafficking cases versus migrant smuggling cases.) Does the government use active investigative techniques in trafficking in persons investigations? To the extent possible under domestic law, are techniques such as electronic surveillance, undercover operations, and mitigated punishment or immunity for cooperating suspects used by the government? Does the criminal procedure code or other laws prohibit the police from engaging in covert operations?

The New Zealand government informs us that it investigates any activity reported or any information that it receives. GNZ also reports that to the extent possible, New Zealand enforcement agencies use all enforcement tools available to them as appropriate and as necessary. There is nothing in the law that prohibits the police from engaging in covert operations - although the scope of these powers is tempered by the New Zealand Bill of Rights Act 1990.

The Embassy has requested from GNZ statistics regarding the number of complaints received and investigations, and has received only limited, quantified information concerning investigations. On August 24, the Minister of Immigration reported in Parliament that the Department of Labour - Immigration, does not gather statistics on the number of illegal migrants found working as prostitutes in New Zealand.

Beginning August 31, the Department of Labour began collecting this information in Auckland compliance operations, and through February 28, identified 31 persons working illegally in nine premises. All were from Asia, and none were identified as trafficking victims. They were from the following countries: Hong Kong (8), China (2), Malaysia (20) and South Korea (1). Other foreign-born nationals were identified but all were found to be either permanent residents or New Zealand citizens and therefore legally able to work as prostitutes.

In UN CEDAW reports to New Zealand from 1998 to 2003, the Committee consistently expressed the concern that New Zealand did not provide sufficient data and information on the situation of prostitution and the treatment of sex workers

who were in New Zealand illegally. In the 2003 CEDAW report, the Committee particularly focused on women without residence permits engaged in prostitution, including statistical information. In its five-year stock take on New Zealand's actions to prevent the commercial sexual exploitation of children, published in June, the Ministry of Justice recognized a statistics problem, noting that while government and non-government agencies have continued to share research reports, statistics and information, such sharing is in an ad hoc manner.

A U.S. Department of Justice attorney (see also 29F) believes that Police in Auckland are not pursuing cases against those hiring underage or migrant prostitutes to work in brothels. She said that although Police in Auckland felt it would not take long to find immigrants illegally engaged in prostitution, their priorities are drug related and violent crimes. This is consistent with the findings of the government's Prostitution Law Review Committee report of April 2005, which found that only half of New Zealand's districts have a New Zealand Police official whose portfolio includes prostitution, and then at a small amount - usually 5-percent of less of the portfolio. Like rural districts, the urban centers assign a single officer to the prostitution portfolio but prostitution would represent a somewhat larger portion of the officer's workload -- on average 20-percent. The proportion of the portfolio was higher still in Christchurch (50-percent) and Auckland central (45-percent), but in all districts, less than one full-time equivalent (FTE) was allocated to prostitution. Low allocations are not altogether surprising, given the generalized decriminalization of prostitution in New Zealand.

The Mandarin Times in Auckland has run articles on Asian brothels and the lack of Police efforts in investigating them. Police believe that there are many Asian women in New Zealand on student permits who may be working illegally, on their own volition, in the prostitution industry. Some Asian women may be in New Zealand under conditions of debt bondage. Officers of the Asian Crime Unit in Auckland believe debt bondage cases are difficult for police to detect because of differences in culture: the women may not feel that they are trafficking victims because they want to work off their debt. Police in Auckland also feel that foreign organized crime interests may be involved in brothels and in finding women for the sex industry. These opinions are supported by the observations of other observers of the Asian community.

Concurrent with debate on the Manukau City Council Control of Street Prostitution Bill (see 29E), a series of print and television pieces reported on Asian brothels in the greater Auckland area. While much of the debate was anecdotal and the government questioned the creditability of the reports in general, some reporters cited recent, historical studies as evidence. Among these studies was a 2004 study of Chinese women engaged in commercial sexual activity. That study identified 13 Asian brothels in the Auckland and Manukau regions. Several of the brothels refused to allow the researchers access to the women. As part of the study, the researchers identified no street workers. They also found that for these Chinese women, the price for commercial sex acts was set by the parlor or pimp in all but one instance, and that the Chinese women had no apparent control in setting price. Spokespersons from the New Zealand's Prostitutes Collective contend that the presence of a pimp is by nature exploitative.

-- I. Does the government provide any specialized training for government officials in how to recognize, investigate, and prosecute instances of trafficking?

The government has provided training to other government officials -- particularly non-governmental organizations in Thailand -- on methods to protect child witnesses in criminal proceedings.

-- J. Does the government cooperate with other governments in the investigation and prosecution of trafficking cases? If

possible, can post provide the number of cooperative international investigations on trafficking?

Yes. The government participates in all international fora on anti-trafficking, and has in the past worked closely with the Government of Thailand to assist victims of trafficking. The Mutual Assistance in Criminal Matters Act 1992 sets out a process that allows New Zealand to co-operate with other governments in the investigation and prosecution of criminal offending, including trafficking, without the need for bilateral mutual legal assistance treaties. The act allows the New Zealand government to provide assistance in a number of areas, including the gathering of evidence, identifying and locating persons, and executing warrants. The New Zealand Police also provide informal assistance to counterparts around the world through Interpol. New Zealand reports that it has not received any requests to investigate trafficking.

-- K. Does the government extradite persons who are charged with trafficking in other countries? If so, can post provide the number of traffickers extradited? Does the government extradite its own nationals charged with such offenses? If not, is the government prohibited by law from extraditing its own nationals? If so, is the government doing to modify its laws to permit the extradition of its own nationals?

Yes. The government allows extra-territoriality to apply in child sexual exploitation cases committed by New Zealanders overseas. Trafficking is an extraditable offense under New Zealand's Extradition Act of 1999, which allows New Zealand to extradite offenders subject to evidential and other requirements being met. New Zealand reports that it has never extradited any persons for trafficking offenses nor received a request to extradite a person charged with trafficking related offenses. The Act reserves the right for the New Zealand Government to refuse to extradite a New Zealand national. Despite this, the New Zealand Government does not, as a matter of general practice, refuse to extradite New Zealand nationals.

-- L. Is there evidence of government involvement in or tolerance of trafficking, on a local or institutional level? If so, please explain in detail.

No, there is no evidence of government involvement in or tolerance of trafficking

-- M. If government officials are involved in trafficking, what steps has the government taken to end such participation? Have any government officials been prosecuted for involvement in trafficking or trafficking-related corruption? Have any been convicted? What sentence(s) was imposed? Please provide specific numbers, if available.

N/A

-- N. If the country has an identified child sex tourism problem (as source or destination), how many foreign pedophiles has the government prosecuted or deported/extradited to their country of origin? What are the countries of origin for sex tourists? Do the country's child sexual abuse laws have extraterritorial coverage (similar to the U.S. PROTECT Act)? If so, how many of the country's nationals have been prosecuted and/or convicted under the extraterritorial provision(s)?

While there is not a large-scale problem; New Zealand has extraterritorial coverage under 144A of the Crimes Act of 1961 in respect of child sexual abuse laws and New Zealand has cooperated in the prosecution of New Zealand citizens that have engaged in child sex tourism overseas. It is also an offense under section 144C of the Crimes Act 1961 to organize or promote child sex tours. ECPAT has worked closely with the travel industry to educate travel agents about legislation and awareness of issues around sex tourism and the risks to children in tourist destinations. In its June 2006 newsletter, ECPAT NZ noted that since the adoption

of the law in 1994, there had been no prosecutions, poor public awareness and low tourism industry awareness. New Zealand NGO, Stop Demand, has also expressed frustration at the lack of any convictions, contending that GNZ has not directed sufficient resources toward this end. ECPAT noted that countries with similar extra-territorial legislation on child sex tourism (Canada, Australia and the United Kingdom), featured information on the extraterritorial legislation on the government travel advisory websites. Noting that New Zealand lacks this information on its site, ECPAT has asked and GNZ is considering revision to its webpage.

-- O. Has the government signed, ratified, and/or taken steps to implement the following international instruments? Please provide the date of signature/ratification if appropriate.

--ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

--ILO Convention 29 and 105 on Forced or Compulsory Labor.

--The Optional Protocol to the Convention on the Rights of the Child (CRC) on the Sale of Children, Child Prostitution, and Child Pornography.

--The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime.

ILO Convention 182 was ratified on June 14, 2001. ILO convention 105 was ratified on June 14, 1968. The Optional Protocol to the convention on the rights of the child on the sale of children, child prostitution and child pornography was signed on September 7, 2000. The protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the UN convention against transnational organized crime was ratified on July 19, 2002.

130. PROTECTION AND ASSISTANCE TO VICTIMS:

-- A. Does the government assist victims, for example, by providing temporary to permanent residency status, relief from deportation, shelter and access to legal, medical and psychological services? If so, please explain. Does the country have victim care and victim health care facilities? Does the country have facilities dedicated to helping victims of trafficking? If so, can you provide the number of victims placed in these care facilities?

The government has provided short-term sanctuary, witness protection, access to medical services and repatriation. Sexual abuse victims are eligible for support from the Accident Compensation Corporation. This includes medical assistance at state expense.

The Victims' Rights Act 2002 established the rights of victims of crime. Such rights include the right to be informed of services (such as physical and mental health services, legal services, social welfare, and counseling) and access to remedies. The NPACT will also consider the levels of services available to victims of trafficking and discuss any measures that could be employed to extend or enhance the support provided to such victims. Temporary permits, including limited purpose permits, can also be provided to victims of trafficking in individual cases.

The New Zealand Council of Victim Support Groups provides 24-hour emotional support, personal advocacy and information to all people affected by crime and trauma throughout New Zealand. Victims with special needs, such as emotional support or counseling will be referred by relevant authorities to the specialist provider of care services.

The New Zealand government is unaware of any situation where a person accessing these services or facilities has claimed to be a victim of trafficking. However, the government has put in place measures to ensure that there are services available for young persons who are involved in or at risk of all forms of commercial sexual exploitation.

In 2004, the Ministry of Social Development; the Department

of Child, Youth and Family; the Department of Building and Housing, and the Housing New Zealand Corporation began work to coordinate income, employment and housing assistance to 16 to 18 year olds leaving the care of Child Youth in Family. In August 2004, the Department of Child, Youth and Family and the Manukau Working Group (a group of government agencies and NGOs concerned about child prostitution) supported the setting up of a safe house for self-referrals and Child Youth and Family referrals for homeless girls between ages 12 and 17 years involved in, or at risk of, commercial sexual activity. Baptist Action offered to run the house on a trial basis. Operated as Awhina Teina, Maori for "embracing the little sister," the aim of the house is to create pathways so that the girls can make lifestyle changes if they want. The house also provides emergency accommodation for those who need a safe bed for the night. The house opened officially in April 2005 and can accommodate up to six children. During the first year, the house had nine residents, whose average age was 14. The government continues to monitor this initiative to see whether further facilities are required. Multiple commentators have noted this single government-funded safe house, and asserted that the government, which has funded international venues, needs to expand and develop Awhina Teina model in Auckland and other regions.

-- B. Does the government provide funding or other forms of support to foreign or domestic NGOs for services to victims? Please explain.

Yes. The government supports a wide range of NGOs including the New Zealand Prostitutes Collective that provide services to commercial sex workers some of whom may have been trafficked.

As there have been no domestic prosecutions for trafficking, the government has not had cause to provide funding to domestic agencies to assist victims. However, the government does fund a number of overseas programs that are directed at preventing trafficking, including by assisting countries to develop support mechanisms for victims.

NZAID recently concluded its support for a UNICEF sponsored program that targeted parts of eastern Indonesia. The program was co-funded with Great Britain, and addressed child protection issues including the trafficking and sexual exploitation of child workers. It involved a mix of advocacy and capacity building work.

The New Zealand government will continue to support a UNICEF-led program in the Philippines. One important aspect of this program involves supporting children at risk of trafficking and labor exploitation. The program includes a wide range of strategies to limit these risks, including advocacy, awareness raising, and improving laws and protection services.

The government has also provided substantial funding to the UN Inter-Agency Project (UNIAP) on human trafficking in the Greater Mekong Sub-region. Key UNIAP components include research work, database development, advocacy, media awareness, promoting cooperation between national and provincial authorities, capacity building, and anti-trafficking projects in specific regions.

-- C. Do the government's law enforcement and social services personnel have a formal system of identifying victims of trafficking among high-risk persons with whom they come in contact (e.g. foreign persons arrested for prostitution or immigration violations)? Is there a referral process in place, when appropriate, to transfer victims detained, arrested or placed in protective custody by law enforcement authorities to NGO's that provide short- or long-term care?

Yes, the government reports that a system is in place that is managed on a case by case basis. Post has no knowledge of trafficked victims who have been jailed, fined or deported. Illegal immigrants have been jailed, fined and deported.

-- D. Are the rights of victims respected, or are victims treated as criminals? Are victims detained, jailed, or deported? If detained or jailed, for how long? Are victims fined? Are victims prosecuted for violations of other laws, such as those governing immigration or prostitution?

Yes. The rights of all victims of criminal offending are respected by New Zealand authorities. The Victims' Rights Act 2002 provides specific statutory recognition to the role of victims in the criminal justice system. The Act provides that those involved in the criminal justice system who come into contact with victims should treat the victims with courtesy, compassion, and respect for their personal dignity and privacy. It also mandates that in addition to being provided counseling and social services, victims and their families should be informed about the progress of criminal proceedings in which the victim is involved, the charges laid, the victim's role as a prosecution witness, the date and place of certain events surrounding hearings, and every final disposition of proceedings. Any information that should be given to the victim can be given to a support person when the victim cannot receive it or is not capable alone of understanding it.

While the New Zealand government reports that since 2001 it is unaware of any victims of trafficking in New Zealand, the government encourages victims to support investigations and prosecutions of people smugglers. New Zealand states that in any trafficking case, its approach would be to seek victims' collaboration, ensure their accommodation needs are met, and issue them temporary permits where appropriate to enable them to remain lawfully in New Zealand, including to serve as legal witnesses if needed.

-- E. Does the government encourage victims to assist in the investigation and prosecution of trafficking? May victims file civil suits or seek legal action against the traffickers? Does anyone impede the victims' access to such legal redress? If a victim is a material witness in a court case against a former employer, is the victim permitted to obtain other employment or to leave the country pending trial proceedings? Is there a victim restitution program?

Yes, if the government were to become aware of instances of trafficking, it would take steps to solicit the cooperation of victims so long as this did not jeopardize the success of proceedings. Although the government would have an interest in persuading the victims to remain, the New Zealand government would not seek to prevent a victim of trafficking leaving the country if the person was seeking to leave of their own volition.

Where a person has been convicted of an offense, he or she may be sentenced to make reparation to the victim. The court must consider reparation in all cases and must impose it unless satisfied that it would be clearly inappropriate because it would result in undue hardship for the offender or the dependents of the offender, or because of any other special circumstances.

For example, in 2000 the Human Rights Commission successfully represented a Thai sex trafficking victim to the New Zealand Disputes Tribunal, and she recovered the NZD 6000 she paid traffickers for what she believed would be restaurant work.

-- F. What kind of protection is the government able to provide for victims and witnesses? Does it provide these protections in practice? What type of shelter or services does the government provide? Does it provide shelter or housing benefits to victims or other resources to aid the victims in rebuilding their lives? Where are child victims placed (e.g. in shelters, foster-care, or juvenile justice detention centers)?

The government provides extensive protection and recovery support to victims and witnesses (see 30A and 30B). Much of victim recovery support and refuge is managed through NGOs,

to which the government provides funding. For child victims, if placement back in the home or foster care is not appropriate, they are placed in a care and protection unit operated by the Department of Child, Youth and Family Services. The government provides special training in dealing with all aspects of children and the law. GNZ has successfully prosecuted at least one case of witness intimidation.

-- G. Does the government provide any specialized training for government officials in recognizing trafficking and in the provision of assistance to trafficked victims, including the special needs of trafficked children? Does the government provide training on protections and assistance to its embassies and consulates in foreign countries that are destination or transit countries? Does it urge those embassies and consulates to develop ongoing relationships with NGOs that serve trafficked victims?

In 1999, the Human Rights Commission set up a "safe house" program to assist Thai sex workers in escaping prostitution in New Zealand. The Commission worked collaboratively with the Department of Immigration, New Zealand Police, New Zealand Prostitutes' Collective, Shakti Migrant Service Trust, and the Thai Embassy to assist a number of victims escape from the Auckland sex trade and return them to Thailand.

Representatives from the Department of Labour and the Human Rights Commission have participated in and conducted numerous training workshops for recognizing victims and perpetrators of trafficking. The Government of New Zealand is an active participant in international fora concerning human trafficking, including the Bali Process and the Asia Pacific Forum of National Human Rights Institutions.

The Department of Labour's Immigration Service has conducted border control training workshops and document examination training for the immigration and border control staff of Pacific countries. The Immigration Service has also provided passenger screening training to staff of airlines serving New Zealand and the Pacific.

Immigration officers have received training on anti-trafficking legislation and its implementation, including the process for providing victims with information on social services.

-- H. Does the government provide assistance, such as medical aid, shelter, or financial help, to its repatriated nationals who are victims of trafficking?

New Zealand citizens and residents are entitled to a wide range of social, mental and physical services, regardless of circumstances. The means and framework are there to provide assistance to victims of trafficking if needed.

-- I. Which international organizations or NGOs, if any, work with trafficking victims? What type of services do they provide? What sort of cooperation do they receive from local authorities? NOTE: If post reports that a government is incapable of assisting and protecting TIP victims, then post should explain thoroughly. Funding, personnel, and training constraints should be noted, if applicable. Conversely, the lack of political will to address the problem should be noted as well.

ECPAT New Zealand, Ending Child Prostitution and Trafficking, is the lead NGO in this field and works closely with the government. Other relevant civil society groups include the New Zealand Prostitutes Collectives and the Salvation Army. These groups have worked closely with local authorities in the past.

End responses.

12. (U) Embassy POC for trafficking in persons issues is Political Officer Tod Duran, Telephone (644) 462-6043 Fax (644) 472-3537.

13. (U) Post estimates that the Political Officer spent 40 hours in preparation of the TIP report cable.
Keegan